

State of New Mexico LEGISLATIVE EDUCATION STUDY COMMITTEE

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September 12, 2006

MEMORANDUM

TO: Legislative Education Study Committee

FR: David Harrell

RE: STAFF BRIEF: *INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT (IDEA 2004): DUE PROCESS HEARINGS*

The workplan for the Legislative Education Study Committee (LESC) for the 2006 interim includes a presentation on the issue of due process hearings pursuant to the federal *Individuals with Disabilities Education Improvement Act (IDEA)*.

Issues:

The federal IDEA and rules promulgated by the Public Education Department (PED) provide a number of recourses for parents of a special needs child who disagree with provisions of the Individualized Education Program (IEP) or with some other determination of a school district related to special education services for the child. One of these recourses is a request for a due process hearing, an issue that has attracted considerable legislative interest at least since 2004, particularly in terms of the length, complexity, and cost of the hearings and the limited amount of insurance coverage currently provided to school districts.

During the 2005 interim, the LESC heard an extensive presentation on the topic of due process (see Attachment 1), which raised a number of points and identified a number of issues, among them:

- that PED defines a due process hearing as a legal action in which a hearing officer makes a decision based on the facts and evidence presented;

- that a due process hearing is only one step – and neither the first nor necessarily the last step – in the overall process of IDEA-based complaints and appeals, nor is it the only step involving significant costs;
- that, over a 10-year period, the number of cases filed has ranged from a low of 16 to a high of 38, with the greatest spike between school years 2001-2002 and 2002-2003, with an increase from 20 to 38 (nearly 100 percent);
- that the fees for hearing officers have ranged from a low of \$1,500 to a high of \$31,600;
- that the New Mexico Public Schools Insurance Authority (NMPSIA) is not required to offer coverage for due process-related expenses but that, since 1997, NMPSIA has voluntarily provided limited reimbursement coverage as a courtesy to its members, coverage that, because of increasing costs, has been reduced to \$20,000 per occurrence with an \$80,000 aggregate per school; and
- that any plan to reduce costs or streamline the hearing process must consider the legal and constitutional rights of the parties involved.

The presentation during 2005 also identified several changes in law and rule that were expected to provide some relief.

- At the federal level:
 - an issue resolved during mediation requires a written, legally binding agreement;
 - the parties must engage in a “resolution session” prior to a due process hearing;
 - with certain exceptions, there is a two-year statute of limitations on filing complaints;
 - to find that a school district has denied a student a free, appropriate public education, the hearing officer must find a substantial impediment, not “a mere procedural technicality”;
 - under certain conditions, a court may award attorneys’ fees to a state or local educational agency that prevails in the case; and
 - a court may reduce attorneys’ fees if it finds that the parents’ attorney unreasonably protracts the final resolution.
- At the state level, changes in PED rules eliminated the second-tier administrative review of hearing officers’ decisions and allowed each party in a due process hearing one-half day to present its case, with the hearing officer having the discretion to extend the time if needed.

Recognizing that additional relief measures might be needed, the LESC endorsed and the 2006 Legislature considered Senate Joint Memorial 3 (Attachment 2), which requested that NMPSIA, in collaboration with PED and with school districts, conduct a study to determine the most cost-effective means of providing school districts with reimbursement coverage for the costs of due process hearings and that the study include ways to reduce the costs, frequency, and duration of the due process hearings themselves. The memorial failed, however, and many of the questions raised during 2005 remain unanswered.

Nonetheless, there have been a number of developments since the 2005 interim that may have a bearing on the issues related to due process hearings.

- Some of them PED has initiated:
 - a renewed emphasis upon pre-hearing resolution measures, including complaint assistance IEP meetings, facilitated IEP meetings, mediation sessions, and resolutions sessions;
 - more thorough training for directors of special education, facilitators, mediators, and hearing officers;
 - development of a manual to standardize the hearing process;
 - plans for an employee to focus on dispute resolution; and
 - the use of a parent liaison to try to resolve issues earlier in the process.
- At the national level, one closely watched case before the US Supreme Court has decided that a parent who prevails in litigation against a school district under IDEA is not entitled to recover the costs of experts who assisted with the case. In *Arlington v. Murphy*, the central question was whether the parents' entitlement to "attorneys' fees," which is clearly stated in IDEA, also extends to "expert fees" – in this case, fees of nearly \$30,000 that the parents paid to an educational consultant for her assistance throughout the IDEA proceedings. The court ruled that, because of ambiguity in the statutory language, a state's acceptance of IDEA funds does not obligate the state to reimburse experts' fees. As one legal analysis says, "The main point of the Arlington case is that IDEA's obligations are not binding on schools unless they are expressed in the law with clarity."
- Finally, back at the state level, questions related to charter schools have arisen. State law requires NMPSIA to insure all charter schools – including those in Albuquerque Public Schools (APS), which is the only district not covered by NMPSIA. At least as early as 2002, however, NMPSIA has questioned whether charter schools are sufficiently cognizant of their responsibilities and liabilities under state and federal law. Such questions may be particularly pertinent in light of the amendments to charter school legislation during the 2006 session, which are scheduled to become effective on July 1, 2007. Among its provisions, Laws 2006, Chapter 94 makes charter schools fully responsible for providing special education:

Each charter school is responsible for identifying, evaluating and offering a free appropriate public education to all eligible children who are accepted for enrollment in that charter school. The state-chartered charter school, as a local educational agency, shall assume responsibility for determining students' needs for special education and related services.

Presenters:

For this presentation:

- Mr. Albert Gonzales, Assistant General Counsel, PED, will discuss the department's recent experience with due process hearings and explain PED's initiatives;
- Ms. Brenda Vigil, Superintendent, Tularosa Municipal Schools, will provide an update on her district's experience with due process hearings; and
- Mr. Sammy Quintana, Executive Director, NMPSIA, and Ms. Julie Garcia, Director, Poms & Associates, will discuss NMPSIA's role and address some of the issues.

Questions the committee may wish to consider:

1. To what extent have the changes in IDEA and PED rule relieved the concerns over due process hearings?
2. Should statute be amended to require NMPSIA to provide reimbursement coverage for due process hearings? If so, should it be full or partial reimbursement? What costs might NMPSIA expect? What appropriation amount might be needed? What conditions should be imposed upon school districts? What provisions or adjustments should be made in response to district practice or experience?
3. What other legislative measures should be considered, if any?
4. What changes, if any, have school districts made in response to due process complaints and hearings?
5. How many due process claims have involved charter schools?
6. Will the Public Education Commission, as an authorizer of charter schools, be implicated in any due process claims involving state-chartered charter schools?

**State of New Mexico
LEGISLATIVE EDUCATION STUDY COMMITTEE**

ATTACHMENT 1

REPRESENTATIVES

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D. Pauline Rindone, Ph.D., Director
Frances R. Maestas, Deputy Director

June 13, 2005

MEMORANDUM

TO: Legislative Education Study Committee

FR: David Harrell

A handwritten signature in black ink, appearing to be "David Harrell", is written over the "FR:" line.

**RE: STAFF BRIEF: SPECIAL EDUCATION: DUE PROCESS HEARINGS FOR
IDEA**

The workplan for the Legislative Education Study Committee (LESC) for the 2005 interim includes a presentation on the issue of due process hearings pursuant to the federal *Individuals with Disabilities Education Act* (IDEA).

Issues:

The 2005 Legislature considered but did not pass two measures related to hearings pursuant to IDEA. One was SB 854 (Attachment 1), which would have required the Public Education Department (PED) to pay hearing officers no more than \$5,000 per case and to provide these hearing officers with yearly training and support on case and time management. The other was SJM 96 (Attachment 2), which would have requested that the LESC, in collaboration with PED and with school districts, study methods of streamlining due process hearings to make them more efficient and less costly. The joint memorial would also have requested that PED implement the strategies resulting from this study.

In large part, these measures were introduced to address the growing concern among school districts – Gadsden, Hobbs, and Tularosa, among others – and state agencies such as the New Mexico Public Schools Insurance Authority (NMPSIA) over the escalating costs of IDEA hearings, some of which are now paid by school districts and reimbursed, at least partially, by NMPSIA. Although neither measure passed, legislative interest in the issue persists.

The Process of Due Process:

While the due process hearings and their costs are the focus of the two legislative measures from 2005, it is important to realize that these hearings are only one step in the overall process of IDEA-based complaints and appeals, which typically begins with parental dissatisfaction over the services provided – or not provided – to a special needs child and which may not end until a hearing in federal appeals court. Thus, a due process hearing is neither the first nor necessarily the last word in an IDEA-related dispute or complaint.

As PED explains in its brochure *Parent and Child Rights in Special Education: Your Procedural Safeguards Notice*, if the parent of a presumably special needs child disagrees with provisions of the Individualized Education Program (IEP) or with some other determination of a school district related to special education services for the child, a number of informal avenues are available to resolve the issues.

- The parent may first try working directly with school personnel, perhaps by requesting another IEP meeting.
- Other options include seeking help from one of the advocacy groups that PED identifies in the brochure or contacting the PED Special Education Bureau, which may be able to act as a “go-between” in another informal attempt to resolve a dispute.
- An amended rule that PED is promulgating to correspond with the reauthorized IDEA will add other preliminary options, among them (1) a facilitated IEP using an independent, state-approved professional mediator to resolve conflicts related to the IEP and (2) a summary due process hearing, which is intended to provide parents and public agencies with an alternative, voluntary dispute resolution process that requires less time and expense than a traditional due process hearing.

However, if a parent believes that the school has violated or failed to follow a provision of law or the child’s IEP, then the parent may file a formal complaint with PED or file with PED a request for a due process hearing (a school may also request a due process hearing).

PED defines a due process hearing as a legal action in which a hearing officer makes a decision based on the facts and evidence presented. The hearing is conducted by a hearing officer appointed by PED from a pool of attorneys in private practice trained in due process procedures and unaffiliated with PED. The hearing officer appointed for a particular case must also be neutral on the issue at hand and unaffiliated with either of the parties in the dispute. According to the amended PED rule, “the overall responsibility of a hearing officer . . . is to balance the interest of parents and students in vindicating their IDEA rights with the interests of public agencies in avoiding financial and human costs beyond those which are reasonably necessary to ensure that those IDEA rights are adequately protected.” In addition, PED provides, on average, one to two days of training for its hearing officers every 12 to 18 months, which the hearing officers attend at their own expense.

Under current PED rule, a hearing officer’s decision may be appealed in a second-tier administrative hearing, conducted by one of the PED approved hearing officers other than the one who conducted the first hearing. However, as discussed more fully under “Statutory and

Regulatory Relief,” below, the amended PED rule will eliminate this second-tier administrative hearing altogether. The next step in the appeal process would be a hearing in state or federal district court (in practice, almost always federal court), followed by an appeal to the US Tenth Circuit Court of Appeals.

Costs of and other Concerns about Due Process Hearings:

SJM 96 enumerates a number of concerns over the due process hearings, among them:

- school districts must pay for due process hearing officers, regardless of the resolution or merit of the case;
- school districts bear all the administrative costs of holding the hearing, including payments to the hearing officer, the wages of a court reporter, payments for hearing facilities, and the school district’s attorney fees;
- petitioners (that is, parents) use the bulk of the hearing time, typically leaving school districts only a portion of the last day to make their case; and
- parents may bring multiple claims in a year and generate multiple due process hearings on behalf of the same student.

As SJM 96 also suggests, a due process hearing involves a number of costs. At the due process hearing level, each party must pay its own attorney fees, but the fee for the hearing officer is generally paid by the school district and reimbursed, at least up to a point, by NMPSIA. If either party appeals an administrative decision to state or federal court, the court may award part or all of the attorney’s fees to the parent if the parent’s appeal prevails. And under the reauthorized IDEA (as explained under “Statutory and Regulatory Relief,” below), a court may now also award attorney fees to the school district under certain conditions.

NMPSIA reimburses school districts through a memorandum of coverage although the reimbursement amount is limited and perhaps in jeopardy. For FY 04, NMPSIA set a limit of \$40,000 per incident to reimburse a school district for the hearing officer’s fees, the district’s legal expenses, and, when ordered, the parents’ legal expenses. For FY 05, that overall incident limit was reduced to \$20,000; and NMPSIA says that, if the risk conditions do not improve, the IDEA reimbursement coverage, which is not required under state law, may be deleted altogether.

Regarding the costs of the hearing officers themselves, PED identifies several factors: a recent increase in the number of cases filed, the number and complexity of the legal issues that IDEA allows parents to raise, together with the legal motions filed by parents’ or school districts’ attorneys; and the inherently complex nature of certain “low-incidence, high-need cases,” particularly profound deafness/cochlear implants, autism spectrum disorders, and severe mental retardation, conditions that one hearing officer describes as “the current hot issues.”

Through a compilation of data covering the period from school year 1995-1996 through June 7, 2005 (Attachment 3), PED has documented the number of cases filed each year and illustrated their disposition, whether they were settled or withdrawn or whether they proceeded to administrative hearings or appeals or to judicial appeals. The greatest spike in the number of

cases filed occurred between school years 2001-2002 and 2002-2003, with an increase from 20 to 38 (nearly 100 percent). Through another compilation of data, which PED will provide, the department has identified the smallest hearing officer bill as \$1,500 and the largest as \$31,600, the latter for an unusual 11-day hearing that concerned cochlear implants. Notably, in terms of SB 854, only four of the 36 cases compiled included hearing officer bills under \$5,000; and the median bill was \$10,800, more than double what SB 854 would have allowed. These bills were based on an hourly rate of \$100, which PED says is below the current market rate of \$125 to \$130 an hour.

Correspondence from one of the hearing officers (Attachment 4) provides more information on the costs associated with due process hearings:

Many of the remedies sought are extremely expensive. Just within the past year, I have decided a case involving a student with autism who needed complex behavioral intervention services not readily available in the rural district he attended. Parents sought placement in an out-of-state private school at a cost of approximately \$100,000 per year. In another case, a student who was deaf, but who was capable of functioning at high academic level, sought the provision of real-time captioning, a system – essentially placing a court reporter and sophisticated computer equipment in the classroom, rather than the sign language translator provided by the district. A series of other cases have involved students who live in rural school districts and who have severe developmental disabilities, combining mental retardation, and emotional and behavioral problems.

While setting caps on hearing officers' fees, as SB 854 proposed to do, would seem to limit the costs that school districts incur, such a measure would have no effect on the other costs of due process hearings; and it may have other, unintended consequences.

- Noting the years that hearing officers have spent developing the expertise to handle the caseload, the PED analysis of SB 854 suggests that few hearing officers would be willing to continue serving under a \$5,000 cap and that PED would therefore be forced to recruit inexperienced hearing officers whose decisions would be more open to attack in federal court.
- The analysis of SB 854 by the Attorney General (AG) acknowledges the concern over escalating costs of special education hearings but also suggests that placing an arbitrary limit on fees may create further problems:

Parties to such cases have a due process right to a hearing, the duration of which is not controlled solely by either party . . . and certainly not by the hearing officer. Should the hearing officer's time extend beyond 50 hours (at \$100 per hour), he or she would have to work for free or cut short the case time. The former would be unpalatable to any hearing officer; and the latter would probably be a breach of professional responsibility as it would almost certainly compromise one or more parties' due process right.

- Hearing officers themselves have raised similar concerns.

- One explains that due process, in any forum, “is not inexpensive. My fear is that rights and privileges which might otherwise be accorded a party may be lost in the interests of economy and . . . that does not relate to justice.” The focus on costs, this hearing officer further suggests, may make hearing officers more concerned with controlling the parties and the process than with seeking the truth and conducting an appropriate legal analysis.
- Another hearing officer has found that, over time, “cases have become more complicated, that intricacies of the law not previously recognized or explored are now being deciphered through the hearing process.” In addition, “[c]ounsel, particularly counsel for parents, have become increasingly skilled and sophisticated, and it bears emphasis that these are **due process** proceedings, designed to provide **all** parties with a neutral forum in which they may bring their disputes for resolution.”
- And a third says, “any attempts to artificially manipulate the length of hearings either in terms of time (by placing a cap on hours and fees) or in terms of substituting unqualified, inexperienced (and thus cheaper) hearing officers . . . is not what is intended under IDEA and would certainly be subject to legal challenge on grounds of preemption and separation of powers.” (See attachments 4, 5, and 6 for still other concerns raised by hearing officers.)

While noting that the emphasis upon the costs of due process hearings ignores the more important legal and procedural issues, hearing officers also point out that their fees are typically lower than others. One notes that, even with the recent increase to \$115 per hour, the rate of compensation for hearing officers is “far beneath that charged by comparably qualified attorneys”; and another notes that, when she handles a case in her private practice, her rate is \$250 per hour and that parents’ attorneys are billing at a rate of \$175 per hour. The recommendation of one hearing officer, endorsed by the others, is that any cost study include all aspects, “from parents’ counsel, court reporter costs, to the bills submitted by counsel for school districts.”

On a related point, another hearing officer (whose primary role has been to serve as an administrative appeal officer) recommends that PED, rather than the school districts, be assigned to pay the hearing officers’ fees:

Having the districts pay the hearing officers places them in the frustrating position of paying for a service over which they have no control whatsoever. Taking the obligation of paying away from the districts also better protects the impartiality of the hearing officers – they would no longer be paid by the very district they are called upon to judge.

SB 854 would have transferred the payment responsibility from the districts to PED.

Statutory and Regulatory Relief:

Some of the concerns over due process hearings may be mitigated by new provisions in the reauthorized IDEA, most of which will go into effect on July 1, 2005 (see “Staff Brief: Reauthorization of the Federal *Individuals with Disabilities Education Act*, June 13, 2005).

According to the Congressional Research Service, this new law “preserves the basic structure and civil rights guarantees of IDEA but also makes significant changes in the law,” many of them designed to relieve the burdens placed upon school districts. Moreover, PED notes that the reauthorized law is intended “to minimize unnecessary adversity in IDEA proceedings [and] to maximize opportunities for informal resolution of disagreements.” However, an attorney who often represents parents in due process hearings suggests that the reauthorized law may actually create additional grounds for litigation, especially in terms of arguments over exceptions to certain provisions.

At any rate, listed below are some of the changes affecting due process hearings (derived from analyses by the Congressional Research Service, the USDE Office of Special Education Programs, and the Consortium for Citizens with Disabilities and from the law itself):

- If the two parties have resolved the issue during mediation, whether before or after a complaint is filed, a written, legally binding agreement is required.
- A new provision requires a “resolution session” prior to a due process hearing. As with mediation, if the resolution session produces an agreement, the parties must execute and sign a legally binding agreement. If a parent’s complaint is resolved at this session, the parent is not entitled to attorneys’ fees.
- With certain exceptions, there is a two-year statute of limitations on filing complaints, which means that a complaint may be filed only if it concerns a violation that occurred no more than two years before the date the parent or school knew or should have known about the alleged violation.
- No party may raise an issue during the due process hearing if that issue was not already raised in the complaint notice.
- Parents are not precluded from filing separate due process complaints on separate issues; however, according to the conference report, the law is intended to encourage the consolidation of multiple issues into a single complaint.
- To find that a school district has denied a student a free, appropriate public education (FAPE), the hearing officer must find more than “a mere procedural technicality”; that is, any procedural inadequacy that the hearing officer cites must have truly impeded the child’s right to FAPE or the parents’ opportunity to participate in the decision-making process.
- A court may award attorneys’ fees to a state or local educational agency that prevails in the case if the complaint is found to be “frivolous, unreasonable, or without foundation,” if the attorney persists to the point that the case becomes frivolous, or if the complaint is presented for an improper purpose such as “to harass, cause unnecessary delay or needlessly increase the cost of litigation.”
- A court may reduce attorneys’ fees if it finds that the parents’ attorney unreasonably protracts the final resolution.

Another potential source of relief is the PED rule previously noted. According to PED, its purpose is to provide additional regulatory tools to increase the opportunities for informal dispute resolution and to contain the financial and human costs when due process requests are filed. The two most important changes, according to PED, are the elimination of the second-tier administrative review of hearing officers' decisions and the removal of hearing officers' jurisdiction to consider issues raised under Section 504 of the federal *Rehabilitation Act* in conjunction with IDEA claims.

- Regarding the first change, two of the hearing officers predict that this measure alone will reduce the overall administrative costs by approximately half. According to figures compiled by PED, the total of the bills submitted by administrative appeals officers in the 36 cases noted above exceeded \$225,000, with the highest at \$24,750 and the lowest at \$250.
- Regarding the second change, one hearing officer suggests that it will not only reduce the number of issues raised in due process hearings but also eliminate the need for "elaborate circumstantial evidence of malice and/or a deliberate indifference to a student's needs," which is a requirement of Section 504 but not of IDEA.
- Still another change addresses one of the concerns raised by SJM 96 by allowing each party in a due process hearing one-half day to present its case, with the hearing officer having the discretion to extend the time if needed.

But even if the reauthorized IDEA and the PED rule do mitigate some concerns, others raised by the memorial still apply, such as the expense of having teachers and other professionals absent from their jobs to prepare for the hearings; the costs to contract with private providers of special education services, if ordered by a hearing officer or a court; and the possibility of partial insurance coverage or no coverage whatsoever. As significant as these concerns may be, however, they should not distract state or district officials or the other parties involved from the fundamental purpose of IDEA: to ensure that students with disabilities receive a free and appropriate public education.

Presenters:

For this presentation:

- Mr. Chuck Noland, Deputy General Counsel, PED, will provide the department's perspective on the issue and additional information about the nature and costs of due process hearings, including commentary on the amended rule;
- Ms. Christy Edwards, Deputy Director, NMPSIA, will explain NMPSIA's process and policies regarding reimbursement of school district expenses, including the memorandum of coverage, and the concerns and policies regarding the cost of due process hearings; and
- Ms. Brenda Vigil, Superintendent, Tularosa Municipal Schools, will provide a school district's perspective on due process hearings and their effects upon school district operations.

Questions the committee may wish to consider:

1. In general, to what extent are the parents of special needs children familiar with their rights under IDEA?
2. What issues have most often prompted complaints under IDEA? How often are the complaints resolved prior to due process hearings?
3. Why has the number of due process hearings increased recently?
4. What changes, if any, have school districts made in response to due process complaints and hearings?
5. To what extent do the new PED rule and the revisions in the reauthorized IDEA mitigate the concerns raised in SB 854 and SJM 96?
6. Have there been any instances of abuse of the due process hearing?
7. How do the number, cost, and duration of due process hearings in New Mexico compare with those in other states? What measures have other states taken to address concerns over due process hearings? Are the issues raised in New Mexico similar to those raised in other states?

RULES

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EDUCATION

SENATE JOINT MEMORIAL

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47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

*Cynthia Herr
Mary Jane Garcia*

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

A JOINT MEMORIAL

REQUESTING THE PUBLIC SCHOOL INSURANCE AUTHORITY TO STUDY DUE
PROCESS REIMBURSEMENT COVERAGE FOR SCHOOL DISTRICTS.

WHEREAS, the federal Individuals with Disabilities
Education Improvement Act provides circumstances under which
parents of special-needs children may request due process
hearings to address grievances regarding the services that
school districts provide to their children; and

WHEREAS, since school year 2002-2003, at least nineteen
school districts in New Mexico have been involved in due
process hearings; and

WHEREAS, the total cost of these due process hearings has
increased from two hundred thousand dollars (\$200,000) in
school year 2002-2003 to one million one hundred thousand
dollars (\$1,100,000) in school year 2004-2005; and

underscored material = new
[bracketed material] = del

1 WHEREAS, the 2005 legislature considered but did not pass
2 two measures related to hearings pursuant to the federal
3 Individuals with Disabilities Education Improvement Act; and

4 WHEREAS, one of these measures would have limited the fees
5 paid to due process hearing officers to five thousand dollars
6 (\$5,000) per case, and the other measure would have requested a
7 study of methods to streamline due process hearings to make
8 them more efficient and less costly; and

9 WHEREAS, the fees paid to hearing officers are only one of
10 several costs associated with due process hearings; and

11 WHEREAS, since 1997, the public school insurance authority
12 has voluntarily provided reimbursement coverage of due process
13 costs as a courtesy to school districts; and

14 WHEREAS, in recent years financial circumstances have
15 compelled the public school insurance authority to place
16 conditions upon and to reduce the amount of this coverage and
17 even to consider discontinuing it altogether; and

18 WHEREAS, despite mitigating effects in the federal
19 Individuals with Disabilities Education Improvement Act as
20 reauthorized in December 2004 and in rules promulgated by the
21 public education department, due process hearings still present
22 school districts with significant costs that are difficult to
23 anticipate;

24 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
25 STATE OF NEW MEXICO that the public school insurance authority,

.160059.1

underscored material = new
[bracketed material] = deleted

1 in collaboration with the public education department and
2 school districts, be requested to conduct a study to determine
3 the most cost-effective means of providing school districts
4 with reimbursement coverage for the costs of due process
5 hearings; and

6 BE IT FURTHER RESOLVED that this study include means of
7 reducing the costs, frequency and duration of due process
8 hearings; and

9 BE IT FURTHER RESOLVED that the public school insurance
10 authority, the public education department and the school
11 districts report their findings and recommendations to the
12 legislative education study committee by August 2006; and

13 BE IT FURTHER RESOLVED that copies of this memorial be
14 transmitted to the director of the public school insurance
15 authority, the secretary of public education and the director
16 of the legislative education study committee for appropriate
17 distribution.

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